



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE

1011 E. Tudor Road
Anchorage, Alaska 99503-6199



AFES/MMM

FEB 20 2009

Ms. Jane Thomas
Nikaitsuq Compliance Lead
Eni US Operating Co. Inc.
101 Benson Blvd., Suite 201
Anchorage, Alaska 99503

Dear Ms. Thomas:

This responds to your December 30, 2008, request for a Letter of Authorization (LOA) for the incidental take of polar bears and Pacific walrus in the Beaufort Sea and the intentional take of polar bears during the operation of the Nikaitsuq Development Program on the North Slope of Alaska. Enclosed is a LOA (09-15) that allows Eni US Operating Co., Inc. (Eni) to take small numbers of polar bears and Pacific walrus incidental to oil and gas exploration in association with Eni's 2009 Nikaitsuq Development Program. Planned activities for the 2009 Nikaitsuq Development Program include:

1. onshore development well drilling;
2. ice roads and ice pads construction to support operations;
3. mine site management;
4. gravel hauling;
5. onshore and offshore pipeline construction; and
6. module staging, assembly and installation

The continuance of the Nikaitsuq Development Program is scheduled to occur during 2009. If any changes develop in your project during this season, such as activities or location, please notify the Marine Mammals Management Office (MMM) prior to change. This will allow us to evaluate the activity and, if appropriate, amend your LOA.

The U.S. Fish and Wildlife Service (Service) believes that protection measures for polar bears described in Eni's Polar Bear/Personnel Encounter Plan, Nikaitsuq Development Project, North Slope, Alaska, dated June 13, 2007, contains appropriate safeguards to limit human/animal interactions. Eni field camps and personnel can limit encounters of polar bears by being observant of approaching animals (i.e., the use of polar bear guards) and where practicable, by allowing the animals to pass unhindered. Eni will provide copies of the polar bear observation form to all Eni contractors operating under the LOA. Report any polar bear sightings, or signs of

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polar bears, such as tracks, scat, or diggings, to this office by phone or using the polar bear observation form. Report any possible den locations that are found during work activities immediately to our office. Service biologists are available for consultation if questions or concerns arise during the project period at the phone numbers listed below and noted in your interaction plan.

Polar bear conservation has benefited from monitoring programs associated with the Incidental Take Program since 1993. Monitoring serves to assess the effect of industrial activities on polar bears by evaluating trends and effects of bear encounter rates, take frequency, as well as the location and timing of encounters. Additionally, through monitoring, the Service seeks to limit disturbance to maternal polar bear den sites, both known dens and those areas that could possibly be preferred by denning polar bears. Use caution when operating near these areas during the maternal denning period (mid November to mid April). The U.S. Geological Survey has posted information regarding polar bear denning habitat on the Alaska Science Center (ASC) website, plus associated documents. The den habitat map (ARC/INFO export file), the mapping manuscript (PDF file) and a picture of den habitat (JPG file) are available on the ASC website (<http://www.absc.usgs.gov/dataproducts.htm>). Please use these resources when planning activities in potential denning areas.

As a precondition to the exploratory program, on December 11, 2008, a FLIR (Forward Looking Infrared) survey flight was conducted between Mine Site E and the mouth of the Ugnu River to identify any potential polar bear dens within the project area. This survey was a cooperative effort between the Eni and the Service (see enclosed report). No polar bear dens were identified during this survey within the defined survey area.

Furthermore, in accordance with section 7 of the Endangered Species Act of 1973, as amended (ESA), issuance of this LOA also fulfills the requirements for Tier 2 Consultation of the Programmatic Biological Opinion for the activities described herein. In the "Programmatic Biological Opinion for Polar Bears (*Ursus maritimus*) on Beaufort Sea Incidental Take Regulations" (June 2008; Tier 1 BO), the Service determined that the total take anticipated as a result of the issuance of the Regulations is not likely to result in jeopardy to the polar bear, in accordance with section 7 of the ESA. In order for the Tier 2 BO to be consistent with the "no jeopardy" conclusion of the Tier 1 BO and for an ESA incidental take statement (ITS) to be provided: (1) the proposed activity must provide the required information, as described in §18.124 of the Regulations; (2) the LOA must include any mitigation measures that the Service believes appropriate for the specific activity and location, as described in §18.128 of the Regulations; and (3) the Service must determine that the incidental take for the specific activity will be consistent with the negligible impact finding for the total take allowed under the Regulations.

Reasonable and prudent mitigation measures, as well as implementing terms and conditions were included for the Service in the Tier 1 BO and have been incorporated into the LOA process. Issuance of this ITS with the LOA completes ESA requirements for authorization of incidental

Ms. Jane Thomas

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take of the polar bear. Compliance with the terms and conditions of this LOA insures that the LOA holder is also in compliance with the ESA.

An additional requirement of this LOA is for your company to provide observational data of polar bears throughout the project and a complete report of all observations at the conclusion of the project to document take. This final report will be provided to the Service within 90 days of project completion. This report meets the tracking and reporting requirements relative to the documentation of take as required by the Marine Mammal Protection Act (MMPA) and the ESA.

This authorization is issued in accordance with our regulations listed at 71 FR 43926, dated August 2, 2006. Please review these regulations. Should you have any further questions contact Mr. Craig Perham of our Marine Mammals Management Office, at (907) 786-3800 or 786-3810.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosa Meehan", with a stylized, flowing script.

Rosa Meehan, Ph.D.
Chief, Marine Mammals Management

Enclosures

cc: Bob Britch, Northern Consulting Group
Mr. Richard Shideler, ADF&G
Fairbanks Fish and Wildlife Field Office (FWFO)
USFWS Office of Law Enforcement (OLE)
North Slope Borough Department of Law

1. The first part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present and for the development of a sound policy for the future. The author points out that the study of history is not only a means of satisfying our curiosity about the past, but also a way of learning from the mistakes of our ancestors and of avoiding them in the future.

2. The second part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present and for the development of a sound policy for the future. The author points out that the study of history is not only a means of satisfying our curiosity about the past, but also a way of learning from the mistakes of our ancestors and of avoiding them in the future.

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ISSUED: January 25, 2009
EXPIRES: January 25, 2010

LETTER OF AUTHORIZATION (09-15)

Eni US Operating Co., Inc. (Eni) is hereby authorized to take small numbers of polar bears and walrus incidental to the preparation of oil and gas exploration in association with Eni's Nikaitchuq Development Program. Planned activities for the 2009 Nikaitchuq Development Program include:

1. onshore development well drilling;
2. ice roads and ice pads construction to support operations;
3. mine site management;
4. gravel hauling;
5. onshore and offshore pipeline construction; and
6. module staging, assembly and installation

Further details of Eni's program are documented in Eni's, "Plan of Operations, Nikaitchuq Development Program, North Slope, Alaska, June 13, 2007."

This authorization and the required conditions below include contractors of Eni performing Eni-approved work under the scope of operations to be conducted. Authorization is subject to the following conditions:

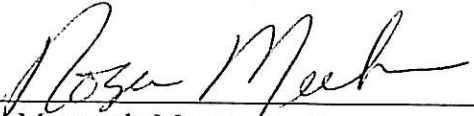
1. Eni's "Polar Bear/Personnel Encounter Plan, Nikaitchuq Development Program, North Slope, Alaska" dated June 13, 2007, is approved and all provisions must be complied with unless specifically noted otherwise in this Letter of Authorization. A copy of this polar bear interaction plan must be available on site for all personnel.
2. Eni Operations Managers, or their designates, must be fully aware, understand, and capable of implementing the conditions of this authorization.

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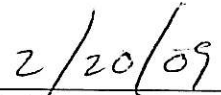
3. Intentional take is prohibited under this authorization.
4. This authorization is valid only for those activities identified in the request for a Letter of Authorization dated December 30, 2008.
5. Polar bear monitoring, reporting, and survey activities will be conducted in accordance with 50 CFR 18, section 18.128. The basic monitoring and reporting requirements follow:
 - Eni must cooperate with the Service, and other designated Federal, State, or local agencies to monitor the impacts of oil and gas exploration activities on polar bears;
 - Eni must not conduct activities that operate nor pass within 1 mile of known polar bear dens, and all observed dens must be reported to the Marine Mammals Management Office, Fish and Wildlife Service within 12 hours of discovery. Should occupied dens be identified within one mile of activities, work within a one-mile area will cease and Service must be contacted for guidance. The Service will evaluate these instances on a case-by-case basis to determine the appropriate action. Potential actions may range from cessation or modification of work to conducting additional monitoring, and Eni must comply with any additional measures specified;
 - Eni must designate a qualified individual or individuals to observe, record, and report the effects of the activity on polar bears to the Service within 24 hours of visual observation;
 - Eni must allow the Fish and Wildlife Service to allow an observer on the site to monitor the impacts of the activity on polar bears, at the discretion of the Fish and Wildlife Service;
 - Eni must submit an annual monitoring report to the Marine Mammals Management Office as required under 18 CFR 18.128(f), which will be received up to 90 days after the expiration date of the LOA.
6. Per the "Programmatic Biological Opinion for the Beaufort Sea Incidental Take Regulations for Polar Bear (June 2008)", your request also triggers the second of the two-tiered programmatic process. In order for incidental take of the polar bear to be exempted from the prohibitions of the ESA, the LOA also serves as an "Incidental Take Statement" (ITS), required under section 7 of the Endangered Species Act of 1973 (ESA). Issuance of the LOA/ITS fulfills the requirements

for Tier 2 Consultation of the Programmatic Biological Opinion for the activities described in this letter.

7. This authorization expires January 25, 2010.



Chief, Marine Mammals Management



Date





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U.S. Fish and Wildlife Service

AUTHORIZATION TO TAKE, BY HARASSMENT, POLAR BEARS (INT09-07)

ISSUED: January 25, 2009
EXPIRES: January 25, 2010

Under Sections 101(a)(4)(A), 109(h) and 112(c) of the Marine Mammal Protection Act of 1972, as amended, Eni US Operating Co., Inc. (Eni) is hereby authorized to deter polar bears in association with Eni's Nikaitchuq Development Program. Planned activities for the 2009 Nikaitchuq Development Program include:

1. onshore development well drilling;
2. ice roads and ice pads construction to support operations;
3. mine site management;
4. gravel hauling;
5. onshore and offshore pipeline construction; and
6. module staging, assembly and installation

Section 101(a)(4)(A) states that, "Except as provided in subparagraphs (B) and (C), the provisions of this chapter shall not apply to the use of measures:

- (i) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;
- (ii) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;
- (iii) by any person, to deter a marine mammal from endangering personal safety; or
- (iv) by a government employee, to deter a marine mammal from damaging public property, so long as such measures do not result in the death or serious injury of a marine mammal.



Section 109(h)(1) states that "nothing in this title (Conservation and Protection of Marine Mammals) shall prevent a Federal, State, or local government official or employee or a person designated under Section 112(c) from taking, in the course of his or her duties as an official, employee, or designee, a marine mammal in a humane manner (including euthanasia) if such taking is for:

- (A) the protection or welfare of the mammal,
- (B) the protection of the public health and welfare, or
- (C) the non-lethal removal of nuisance animals."

The purpose of authorizing taking by harassment, or deterrence, is to maintain human and bear safety and welfare throughout the North Slope. Authorizing Level B harassment take reduces the likelihood of death or injury of polar bears. Level B harassment take will only occur for:

- 1. the protection or welfare of the mammal,
- 2. the protection of the public health and welfare, or
- 3. the non-lethal removal of nuisance animals.

Level B harassment take is accomplished using the following objectives:

- 1. Prevent bears from associating food with humans and communities
- 2. "Train" bears to avoid people
- 3. Allow bears to use travel routes (natural and man-made) to move along the coast
- 4. Prevent bears from extended use of areas around communities
- 5. Prevent bears from entering the communities

Harassment authorization is subject to the following conditions:

- 1. Eni's "Polar Bear/Personnel Encounter Plan, Nikaitchuq Development Program, North Slope, Alaska" dated June 13, 2007, is approved, and all current provisions are incorporated into the following extension Letter of Authorization by reference. A copy of the polar bear interaction plan must be available in each community for all personnel responsible for deterrence.
- 2. Eni Managers, or their designates, must be fully aware, understand, and capable of implementing the conditions of this authorization.
- 3. This authorization is restricted to harassment activities.
- 4. Authorized individuals are responsible for documenting and reporting to the U.S. Fish and Wildlife Service, Marine Mammals Management Office, (907) 786-3800, all instances involving harassment activities as soon as possible and not later than 24 hours after the occurrence.

5. This authorization is issued specifically to Eni who is responsible for ensuring that **trained and qualified** personnel are assigned the task to harass (deter) polar bears. A list of qualified Eni personnel assigned to deter bears must be submitted to the U.S. Fish and Wildlife Service, Marine Mammals Management Office, Anchorage, Alaska, (907) 786-3800 within 14 days of receipt of this authorization and any personnel changes must be provided to this office.
6. Should occupied polar bear dens be identified they will be reported to the Marine Mammals Management Office, Fish and Wildlife Service immediately. The Service will evaluate these instances on a case-by-case basis to determine the appropriate action to minimize disturbance and safeguard the bear occupants of the den.
7. A final report of all encounters and hazing events must be submitted to the U.S. Fish and Wildlife Service, Marine Mammals Management Office no later than within 60 days from the expiration date of this authorization.
8. Hazing techniques must not cause the injury or death of a bear. Types of hazing techniques may include, but are not limited to:
 - Bear Monitors
 - Air horns
 - Electric fences
 - Chemical repellents
 - Acoustic recordings
 - Vehicles
 - Projectiles: cracker shells, bean bags, rubber bullets, screamers.
9. Prior to conducting a harassment activity, operators must:
 - Make a reasonable effort to reduce or eliminate attractants;
 - Secure site; notify supervisor; move personnel to safety;
 - Ensure bear has escape route(s); and
 - Ensure communication with all personnel.
10. When conducting a harassment activity, operators must:
 - Chose the method that will have the least effect on the bear and increase the intensity of the method or use additional methods only if necessary;
 - Shout at the bear before using projectile (avoidance conditioning); and
 - Move bear in proper direction; continue with minimally necessary deterrents to receive desired result.
11. After a harassment event has occurred, operators must:

- Monitor bear movement (to ensure no return);
- Notify supervisor and personnel to resume work; and
- Fill out report to be sent to the Service as required under condition 4 (within 24 hours)

12. This Authorization is valid for the period indicated on this authorization, unless extended or terminated in writing by the U.S. Fish and Wildlife Service, Marine Mammals Management Office.

Signed: Rose Meek

Date: 2/20/09